

FILED BY CLERK

FEB 10 2010

COURT OF APPEALS
DIVISION TWO

IN THE COURT OF APPEALS
STATE OF ARIZONA
DIVISION TWO

ISIAH HILL,

Petitioner/Appellant,

v.

ARIZONA DEPARTMENT OF
CORRECTIONS,

Respondent/Appellee.

2 CA-HC 2009-0005
DEPARTMENT B

MEMORANDUM DECISION

Not for Publication
Rule 28, Rules of Civil
Appellate Procedure

APPEAL FROM THE SUPERIOR COURT OF PINAL COUNTY

Cause No. CV-200902783

Honorable Boyd T. Johnson, Judge

AFFIRMED

Isiah Hill

Florence
In Propria Persona

Terry Goddard, Arizona Attorney General
By Michael Brodsky

Phoenix
Attorney for Respondent/Appellee

V Á S Q U E Z, Judge.

¶1 Isiah Hill appeals from the trial court's denial of his petition for writ of habeas corpus and its subsequent transfer of his petition to Maricopa County to be treated

as a petition for post-conviction relief pursuant to Rule 32, Ariz. R. Crim. P. We affirm for the reasons stated below.

¶2 Pursuant to a plea agreement, Hill was convicted in Maricopa County Superior Court and sentenced to prison and placed on probation for two counts of conspiracy to illegally control an enterprise and one count each of conspiracy to commit burglary, use of an electronic communication in a drug-related transaction, kidnapping, illegal control of an enterprise, attempted child prostitution, and pandering. He filed a petition for post-conviction relief and the trial court apparently denied relief. He subsequently filed a petition for writ of habeas corpus in Pinal County, where he is incarcerated. In that petition he argued the trial court in his criminal case lacked jurisdiction over his alleged offenses because they had been predicated on illegal wiretaps and he was mentally incompetent at the time of his plea agreement, rendering void his convictions and sentences.

¶3 The trial court concluded that “the grounds . . . asserted [in the petition for habeas corpus] are grounds that should have been and could have been raised in post conviction proceedings; they relate to the conduct in the court proceedings that le[]d to his incarceration.” The court therefore denied Hill’s request for a writ of habeas corpus and, pursuant to Rule 32.3, Ariz. R. Crim. P., stated the petition would be treated as a petition for post-conviction relief. The court then transferred the matter to Maricopa County Superior Court, the county in which Hill had been convicted. Hill timely filed this appeal pursuant to A.R.S. § 12-2101(L)(1).

¶4 Hill asserts the trial court abused its discretion in denying him relief and in treating his petition as one for post-conviction relief. He contends Maricopa County Superior Court lacked jurisdiction in his criminal case because the evidence supporting the charges against him was obtained illegally and he was incompetent to enter the plea agreement. “The decision whether to issue a writ of habeas corpus is entrusted to the sound discretion of the trial court, and we will not disturb the trial court’s decision unless we see an abuse of discretion.” *State v. Cowles*, 207 Ariz. 8, ¶ 3, 82 P.3d 369, 370 (App. 2004).

¶5 “In Arizona, the writ of habeas corpus may be used only to review matters affecting a court’s jurisdiction.” *In re Oppenheimer*, 95 Ariz. 292, 297, 389 P.2d 696, 700 (1964). Thus, “[t]he writ of habeas corpus is not the appropriate remedy to review irregularities or mistakes in a lower court unless they pertain to jurisdiction.” *State v. Court of Appeals*, 101 Ariz. 166, 168, 416 P.2d 599, 601 (1966). And, when

a defendant applies for a writ of habeas corpus in a trial court having jurisdiction of his or her person raising any claim attacking the validity of his or her conviction or sentence, that court shall under this rule transfer the cause to the court where the defendant was convicted or sentenced and the latter court shall treat it as a petition for [post-conviction] relief.

Ariz. R. Crim. P. 32.3; *see also Floyd v. Superior Court*, 134 Ariz. 472, 474, 657 P.2d 885, 887 (App. 1982).

¶6 Although Hill has attempted to characterize his claims as relating to the convicting court’s jurisdiction, his claims only relate to the regularity of the proceedings against him—the evidence used to indict him, his competency at the time he entered his

change of plea, and his ultimate claim that his convictions and sentences are void. Therefore, the trial court properly concluded his claims “relate[d] to the conduct in the court proceedings that le[d] to his incarceration” and that it was required, pursuant to Rule 32.3, to “transfer the matter to the Court in which the convictions occurred.”

Disposition

¶7 Because Hill has not established he was entitled to habeas corpus relief and raised only claims properly cognizable under Rule 32, we affirm the trial court’s denial of relief and subsequent transfer of Hill’s petition to Maricopa County Superior Court.

GARYE L. VÁSQUEZ, Judge

CONCURRING:

PETER J. ECKERSTROM, Presiding Judge

J. WILLIAM BRAMMER, JR., Judge